

be regarded as the destination for purposes of applying the term "round trip". If a cruise or tour ends at a point other than the one at which it began, the rules of "open jaw" transportation set forth in paragraph (b) of this section apply.

(b) *Open jaw transportation.* Transportation which qualifies under this paragraph as "open jaw" transportation will be treated in the same manner as a round trip. For purposes of the regulations in this subpart, "open jaw" transportation means (1) transportation from the point of departure to a specified destination and return from the specified destination to a point other than the original point of departure, or (2) transportation from the point of departure to a specified destination and return from a point other than the specified destination to the original point of departure, provided that where the points of the open jaw are within the continental United States or the 225-mile zone, the distance between the points of the open jaw does not exceed the distance of the shorter segment traveled. For example, a trip from New York to New Orleans via Panama would be considered as one trip from New York to Panama and separate trip from Panama to New Orleans, since the distance between the points of the open jaw (i.e., New York and New Orleans) is shorter than the distance between Panama and New Orleans (the shorter of the two segments traveled). Both trips would be nontaxable. On the other hand, transportation from New York to Miami via Bermuda does not qualify as "open jaw" transportation (since the points of the open jaw are in the United States and the distance between them is greater than the shorter segment traveled) and therefore would be considered a single trip from New York to Miami and would be taxable.

§ 49.4264(f)-1 Transportation outside the northern portion of the Western Hemisphere.

(a) *Transportation which leaves and re-enters the northern portion of the Western Hemisphere.* For purposes of the regulations in this subpart, transportation, any part of which is outside the northern portion of the Western Hemisphere

(as defined in paragraph (c) of this section) shall, if the route of the transportation leaves and re-enters the northern portion of the Western Hemisphere, be considered to consist of transportation to the point outside such northern portion and of separate transportation thereafter. The amount paid for such transportation will be considered to be a payment made for two trips and the taxability of the payment will be determined accordingly. Thus, an amount paid for transportation from New York to San Francisco with a stop at Caracas, Venezuela, will be considered an amount paid for a trip from New York to Caracas and for a separate trip from Caracas to San Francisco, neither of which is taxable transportation.

(b) *Transportation beginning before November 16, 1962, by water on a vessel—*(1) *Special rule.* Section 4264(f)(2) prior to its amendment by section 5(b) of the Tax Rate Extension Act of 1962 provided a special rule in the case of transportation which begins before November 16, 1962, any part of which is outside the northern portion of the Western Hemisphere, by water on a vessel which makes one or more intermediate stops at ports within the United States on a voyage which (i) begins or ends in the United States, and (ii) ends or begins outside the northern portion of the Western Hemisphere. In such a case, a stop at an intermediate port within the United States at which such vessel is not authorized both to discharge and to take on passengers shall not be considered to be a stop at a port within the United States. A vessel is considered to be authorized both to discharge and to take on passengers at an intermediate port unless there is a legal or other authoritative prohibition of such traffic. For purposes of the preceding sentence, an order issued by the owner or operator of a vessel prohibiting such vessel from either discharging or taking on passengers at the intermediate port is not a legal or other authoritative prohibition of such traffic.

(2) *Illustrations.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A purchases a steamship ticket in New York for transportation from New

York to Southampton, England. The vessel on which A sails makes an intermediate stop during the course of such voyage at Boston to take on passengers. The vessel is not, however, authorized to discharge passengers at such port. No tax applies to the portion of the transportation between New York and Boston since under section 4264(f)(2) the vessel is not considered to have made a stop at Boston.

Example (2). B purchases a steamship ticket in San Francisco for a voyage from San Francisco to Tokyo, Japan. The vessel on which B travels makes a stop at Honolulu, Hawaii, to discharge passengers. The vessel is also permitted to take on passengers in Honolulu. Since the vessel is permitted both to discharge and take on passengers at the stop in Honolulu, the portion of the transportation between San Francisco and Hawaii not excluded under section 4262(b) (i.e., the portion of such transportation between the pier in San Francisco and the three-mile limit off the coast of California and between the three-mile limit off the coast of Hawaii and the pier in Honolulu) is taxable under section 4262(a)(2) as transportation from one port in the United States to another port in the United States.

(c) *Northern portion of the Western Hemisphere.* For purposes of the regulations in this subpart, the term “northern portion of the Western Hemisphere” means the area lying west of the 30th meridian west of Greenwich, east of the International Date Line, and north of the equator, but not including any country of South America.

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Subpart E—Transportation of Property

§ 49.4271-1 Tax on transportation of property by air.

(a) *Purpose of this section.* In general, section 4271 of the Internal Revenue Code of 1954, as added by the Airport and Airway Revenue Act of 1970, imposes a tax equal to 5 percent of the amount paid within or without the United States for the transportation of property by air which begins after June 30, 1970, if such transportation begins and ends in the United States. This section sets forth rules as to the general applicability of the tax. This section also sets forth rules as authorized by section 4272(b)(2) which exempt from tax payments for the transportation of

property by air in the course of exportation (including shipment to a possession of the United States) by continuous movement, and in due course so exported.

(b) *Imposition of tax.* (1) The tax imposed by section 4271 applies only to amounts paid to persons engaged in the business of transporting property by air for hire.

(2) The tax imposed by section 4271 does not apply to amounts paid for the transportation of property by air if such transportation is furnished on an aircraft having a maximum certificated takeoff weight (as defined in section 4492(b)) of 6,000 pounds or less, unless such aircraft is operated on an established line. The tax imposed by section 4271 also does not apply to any payment made by one member of an affiliated group (as defined in section 4282(b)) to another member of such group for services furnished in connection with the use of an aircraft if such aircraft is owned or leased by a member of the affiliated group and is not available for hire by persons who are not members of such group.

(3) Since the tax imposed by section 4271 applies only to amounts paid to persons engaged in the business of transporting property by air for hire, the tax applies to amounts paid to an air carrier by a freight forwarder or express company for the transportation of property by air. The tax does not apply to amounts paid by a shipper to a freight forwarder or express company.

(c) *Property exported or imported entirely by air.* (1) The tax does not apply to amounts paid for transportation entirely by air which begins in the United States and ends outside the United States, or which begins outside the United States and ends in the United States. Transportation of property by air will be considered to begin and end at the points of origin and destination shown on a through airwaybill covering shipment of the property, even though there may be stopovers in the United States (such as, for example, to consolidate cargo at a “gateway” city). If a through airwaybill is issued by a person other than a person engaged in the business of transporting property by air for hire (for example, by a